

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Dennis Maurice Temple,)
Plaintiff,) C/A No. 8:11-0189-MBS
vs.)
Ocnee County; Sergeant Scott Arnold;)
Lt. Greg Reed; Lt. Charles Reed; Sergeant)
Patrick Merck; Sergeant David Philpott;)
Sergeant Kevin Cain; Correctional Officer)
John Unknown; Correctional Officer Tim)
Williamson; Nurse Alan Van Heusen;)
Nurse Chrissy Shiflett, in their individual)
capacity,)
Defendants.)

O R D E R

Plaintiff Dennis Maurice Temple is an inmate currently in the custody of the South Carolina Department of Corrections (SCDC). Plaintiff, proceeding pro se, brings this action against Defendants, alleging that his constitutional rights were violated because he was subjected to unlawful searches and seizures that led to his arrest and eventual conviction for criminal sexual conduct in the first degree, kidnaping, and grand larceny. Plaintiff brings this action pursuant to 42 U.S.C. § 1983. Plaintiff further asserts state law claims for defamation and battery.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915 and 1915A. On March 4, 2011, the Magistrate Judge filed a Report and Recommendation in which he determined that the within action is barred by Heck v. Humphrey, 512 U.S. 477 (1994). Accordingly, the Magistrate Judge recommended that the within action be summarily dismissed and that the court decline to

exercise jurisdiction over Plaintiff's state law claims. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Plaintiff's complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

March 29, 2011.

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.